

# EXHIBIT ONE

\*AO88 (DE Rev. 01/07) Subpoena in a Civil Case

Issued by the  
**UNITED STATES DISTRICT COURT**  
 DISTRICT OF DELAWARE

Advanced Micro Devices, Inc. and  
 AMD International Sales & Services, Ltd.  
 V.

**SUBPOENA IN A CIVIL CASE**

Intel Corporation and Intel Kabushiki Kaisha  
 In Re: Intel Corp Microprocessor Antitrust Litigation

Case Number:<sup>1</sup> 05-441-JJF, MDL 05-1717-JJF

TO: Ernst & Young LLP  
 c/o National Registered Agents, Inc.  
 160 Greentree Drive, Suite 101  
 Dover, Delaware 19904

- ☐ YOU ARE COMMANDED to appear in the United States District court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY	COURTROOM
	DATE AND TIME

- ☐ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.

PLACE OF DEPOSITION	DATE AND TIME
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- ☒ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects):


See Attached Schedule A hereto

PLACE Howrey LLP 1299 Pennsylvania Avenue, N.W. Washington, D.C. 20004	DATE AND TIME 5/24/2007 5:00 pm
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- ☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES	DATE AND TIME
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Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR <u>DEFENDANT</u> ) 	DATE 4/24/2007
ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER Eduardo Ferrer 1299 Pennsylvania Avenue, N.W. (202) 383-6756 Howrey LLP Washington, D.C. 20004	

(See Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), on next page)

<sup>1</sup> If action is pending in district other than district of issuance, state district under case number.

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## PROOF OF SERVICE

DATE

PLACE

SERVED

SERVED ON (PRINT NAME)

MANNER OF SERVICE

SERVED BY (PRINT NAME)

TITLE

## DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on

DATE

SIGNATURE OF SERVER

ADDRESS OF SERVER

Rule 45, Federal Rules of Civil Procedure, Subdivisions (c), (d), and (e), as amended on December 1, 2006:

## (c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2) (A) A person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection, copying, testing, or sampling of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises shall not be entitled to inspect, copy, test, or sample the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production, inspection, copying, testing, or sampling. Such an order to compel shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection, copying, testing, or sampling commanded.

(3) (A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance;

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held;

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information; or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party; or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject

to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

## (d) DUTIES IN RESPONDING TO SUBPOENA.

(1) (A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) (A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial-preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information is produced in response to a subpoena that is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, it must take reasonable steps to retrieve it. The person who produced the information must preserve the information until the claim is resolved.

(e) CONTEMPT. Failure of any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena issued. An adequate cause for failure to obey exists when a subpoena purports to require a nonparty to attend or produce at a place not within the limits provided by clause (ii) of subparagraph (c)(3)(A).

**Schedule A**

**DEFINITIONS**

The following terms shall have the meanings set forth below whenever used in any discovery request.

1. The terms “ERNST & YOUNG,” “you” and “your” mean Ernst & Young LLP and its predecessors, present and former divisions, parents, subsidiaries, branches and affiliates, owners, partners, officers, directors, employees, agents, and other representatives of Ernst & Young LLP.

2. The term “AMD” means Advanced Micro Devices, Inc. and AMD International Sales & Service, Ltd. and any parent, subsidiary or affiliate entities, as well as the owners, partners, officers, directors, employees, agents, and other representatives of Advanced Micro Devices, Inc., and AMD International Sales & Service, Ltd.

3. The term “DOCUMENT” is synonymous in meaning and equal in scope to the usage of the term in Fed. R. Civ. P. 34(a), including, without limitation, electronic or computerized data compilations. A draft or non-identical copy constitutes a separate document within the meaning of the term.

4. The term “COMMUNICATION” means the transmittal of information and encompasses every medium of information transmittal, including, but not limited to, oral, written, graphic and electronic communication.

5. The terms “relate to,” “relating to,” “related to,” “refer to,” “referring to” or “concerning” mean constituting, pertaining to, making reference to, comprising, evidencing, alluding to, responding to, connected with, commenting on, with respect to, about, regarding, resulting from, embodying, explaining, supporting, discussing, showing, describing, reflecting, analyzing, setting forth, in respect of, having a direct relationship to or in any way being factually, legally or logically connected to, in whole or in part, the stated subject matter.

6. The term “CUSTOMER” means any actual or potential purchaser of AMD microprocessors or computer systems that incorporate microprocessors, including, but not limited to original equipment manufacturers (“OEMs”), distributors, retailers, dealers, original design manufacturers (“ODMs”), system builders, distributors, assemblers, and resellers.

7. "MICROPROCESSOR" means general purpose microprocessors that use the x86 instruction set.

8. "x86 COMPUTER PRODUCT" means a computer system that contains one or more x86 microprocessors.

9. "FAB" means any high technology fabrication facility.

### INSTRUCTIONS

1. Documents to be produced include documents in your possession, custody, or control wherever located.

2. Unless otherwise specifically stated herein, the time period covered by this request is from January 1, 2000 to the date this subpoena was issued.

3. If ERNST & YOUNG objects to a request in part, please state specifically which part of the request ERNST & YOUNG objects to and produce all DOCUMENTS responsive to all other parts of the request.

4. If any DOCUMENT covered by these requests is withheld by reason of a claim of privilege, please furnish a list at the time the DOCUMENTS are produced identifying any such DOCUMENT for which privilege is claimed, together with the following information for any such DOCUMENT withheld: author; recipient; sender; carbon copies; blind copies; date; general subject matter; the basis upon which privilege is claimed; and the number of the request to which the withheld DOCUMENT relates.

5. At ERNST & YOUNG's election, all paper, hard copy DOCUMENTS can be produced either: 1) as they are kept in the usual course of business, 2) as searchable .PDF (i.e., portable document format files with embedded text) and in an appropriate and useable manner (e.g., by copying such data onto a USB 2.0 external hard drive), 3) and/or in a manner in which the DOCUMENTS are organized and labeled to correspond to the document requests by number.

6. Please produce all DOCUMENTS maintained or stored electronically in native electronic format with all the relevant data intact and in an appropriate and useable manner (e.g., by copying such data onto a USB 2.0 external hard drive).

7. To the extent responsive DOCUMENTS reside on databases and other such systems and files, ERNST & YOUNG shall either produce the relevant database in

useable form and/or permit access for inspection, review, and extraction of responsive information.

### **DOCUMENTS TO BE PRODUCED**

1. ALL DOCUMENTS and COMMUNICATIONS prepared by, sent by, or received by you in connection with your audits of AMD that relate to the terms and conditions or the disclosure of any transaction between AMD and any AMD customer in which AMD offered, granted, or extended any pricing, discounts, rebates, price concessions, marketing or promotional funds, market development funds, business development funds, incentives, inducements, training or technical support, allocation preference, access to technical or roadmap information, meet competition funds, subsidies, seed units, or free units in connection with the customer's purchase, marketing, or promotion of MICROPROCESSORS or x86 COMPUTER PRODUCTS.

2. ALL DOCUMENTS and COMMUNICATIONS prepared by, sent by, or received by you in connection with your audits of AMD that relate to any decision by AMD to retire or increase debt; repurchase stock; maintain or change its research and development expenditures; file or prosecute any law suit against Intel or communicate with any government agency regarding Intel; finance, construct, upgrade and/or close FABs 25, 30, or 36; and/or enter into a joint venture with United Microelectronic Corporation (UMC) or International Business Machines (IBM) for the development of microprocessor manufacturing technology and/or the actual production of microprocessors.

3. ALL DOCUMENTS and COMMUNICATIONS prepared by, sent by, or received by you in connection with your audits of AMD that relate to any factor that may have had a negative impact on AMD's unit sales of x86 processors, revenues, or profitability and/or led AMD to restate or revise its quarterly or annual financial statements or forecasts.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, W. Harding Drane, hereby certify that on May 2, 2007, the attached document was hand delivered to the following persons and was electronically filed with the Clerk of the Court using CM/ECF which will send notification of such filing(s) to the following and the document is available for viewing and downloading from CM/ECF:

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I hereby certify that on May 2, 2007, I have Electronically Mailed the documents to the following non-registered participants:

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